

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MALIK JOELL JOHNSON,)	
)	Civil Action
Petitioner)	No. 2005-CV-01242
)	
vs.)	
)	
GERALD L. ROZUM,)	
THE DISTRICT ATTORNEY OF THE)	
COUNTY OF LEHIGH and)	
THE ATTORNEY GENERAL OF THE)	
STATE OF PENNSYLVANIA,)	
)	
Respondents)	

O R D E R

NOW, this 27th day of October, 2006, upon consideration of the pro se Petition for Writ of Habeas Corpus, which petition was filed March 16, 2005; upon consideration of the Commonwealth's Response to Petitioner's Writ of Habeas Corpus, which response was filed August 11, 2005; upon consideration of the Traverse to the Answer and Memorandum Sur Petitioner's Habeas Corpus Petition, which Traverse was filed September 10, 2006; upon consideration of the Report and Recommendation of United States Magistrate Judge Sandra Moore Wells filed September 28, 2006; upon consideration of Petitioner's Objection and Responses to Magistrate's Report and Recommendation, which objection was filed October 20, 2006; it appearing that petitioner's objections to Magistrate Judge Wells' Report and Recommendation are a restatement of the issues raised in his underlying petition for habeas corpus relief and are without merit; it further appearing after de novo review of this matter that Magistrate Judge Wells'

Report and Recommendation correctly determined the legal and factual issues presented in the petition for habeas corpus relief,

IT IS ORDERED that Magistrate Judge Wells' Report and Recommendation is approved and adopted.

IT IS FURTHER ORDERED that petitioner's objections to Magistrate Judge Wells' Report and Recommendation are overruled.¹

IT IS FURTHER ORDERED that the pro se petition for habeas corpus relief is denied without a hearing.

IT IS FURTHER ORDERED that because petitioner fails to demonstrate either the denial of a constitutional right or that reasonable jurists would disagree with this court's disposition of his claims, a certificate of appealability is denied.

¹ When objections are filed to a magistrate judge's report and recommendation, we are required to make a de novo determination of those portions of the report, findings or recommendations made by the magistrate judge to which there are objections. 28 U.S.C. § 636(b)(1); Rule 72.1(IV)(b) of the Rules of Civil Procedure for the United States District Court for the Eastern District of Pennsylvania. Furthermore, district judges have wide latitude regarding how they treat recommendations of the magistrate judge. See United States v. Raddatz, 447 U.S. 667, 100 S.Ct. 2406, 65 L.Ed.2d 424 (1980). Indeed, by providing for a de novo determination, rather than a de novo hearing, Congress intended to permit a district judge, in the exercise of the court's sound discretion, the option of placing whatever reliance the court chooses to place on the magistrate judge's proposed findings and conclusions. We may accept, reject or modify, in whole or in part any of the findings or recommendations made by the magistrate judge. Raddatz, supra.

As noted above, we conclude that petitioner's objections to Magistrate Judge Wells' Report and Recommendation are nothing more than a restatement of the underlying claims contained in his petition for habeas corpus. Moreover, upon review of the Report and Recommendation, together with de novo review of this matter, we conclude that the Report and Recommendation correctly determines the legal and factual issues raised by petitioner.

Accordingly, we approve and adopt Magistrate Judge Wells' Report and Recommendation and overrule petitioner's objections to the Report and Recommendation.

IT IS FURTHER ORDERED that the Clerk of Court shall mark this matter closed for statistical purposes.

BY THE COURT:

/s/ JAMES KNOLL GARDNER
James Knoll Gardner
United States District Judge